CORRECTIONS

Mentally III Offenders

HB 09-1021 (Enacted)
Reauthorize Mentally III Offenders

Study

HB 09-1022 (Enacted) Recidivism Reduction Grant Program HB 09-1253 (Enacted)
Defendants with Mental Illness

SB 09-006 (Enacted)

County Jail Identification Unit

Earned Time and Parole

HB 09-1181 (Enacted)
Victim Statement Community

Corrections

SB 09-135 (Enacted)
Parole Decision Reporting and
Statistics

HB 09-1263 (Enacted) Time Deductions County Jails HB 09-1351 (Enacted)
Increase Earned Time Allowance

Department of Corrections Facilities

HB 09-1011 (Postponed Indefinitely)
Department of Corrections
Headquarters Lease-purchase

SB 09-034 (Enacted)
Department of Corrections Facility
Designation Change

Mentally Ill Offenders

The Legislative Oversight Committee and Task Force for the Continuing Examination of Persons with Mental Illness Who Are Involved in the Justice System were originally created in 1999. **House Bill 09-1021** extends the repeal date from 2010 to 2015 for the oversight committee and the task force. The bill also adds a representative of the Colorado Department of Labor and Employment to the task force, bringing the total number of members to 31. The previous authorizing legislation laid out a set of topics for the task force to study each year. This bill alters that method slightly by providing some guideline topics that need to be considered at some point between July 1, 2009, and July 1, 2014. These are the:

- diagnosis, treatment, and housing of adults with mental illness or co-occurring disorders who are involved in the justice system;
- diagnosis, treatment, and housing of juveniles with mental illness or co-occurring disorders who are involved in the justice system;
- ongoing treatment, housing, and supervision of adults and juveniles who are involved in the justice system and the availability of public benefits for these persons; and
- safety of the staff who treat or supervise individuals with mental illness and the use of force against persons with mental illness.

House Bill 09-1022, a bill recommended by the Legislative Oversight Committee for the Continuing Examination of Persons with Mental Illness Who Are Involved in the Justice System, creates the Recidivism Reduction Grant Program within the Department of Public Safety, Division of Criminal Justice (DCJ). The grant program is designed to provide three-year implementation grants for programs to reduce recidivism for individuals with mental illness who have been involved in the criminal justice system. County governments and collaborations among groups of counties

are eligible to apply. The bill specifies that individual grants will not exceed \$100,000 per applicant in a year or \$200,000 per applicant over three years. To apply for the grants, county governments must fill out an application with information on the strategies, goals, and outcomes of the program, as well as information on costs and how the grant monies will be used. Specifically, the grant program will fund:

- mental health courts;
- transitional housing or employment programs;
- re-entry services;
- alternatives to incarceration;
- transition services: and
- community corrections programs.

The bill specifies that the department is only to accept applications and award grants under the program if sufficient moneys are received through gifts, grants, and donations to cover the awards.

House Bill 09-1253 clarifies jurisdictional issues concerning petitions for involuntary treatment of defendants requiring evaluation or restoration to competency. If a defendant is in the custody of the Department of Human Services (DHS), a hearing on the subject of involuntary treatment must be held in the jurisdiction where the defendant is physically located. This will be Pueblo County because such defendants receive treatment and evaluation at the Colorado Mental Health Institute in Pueblo. The DHS is then required to deliver a copy of the petition for involuntary treatment to the court that committed the defendant, the prosecuting attorney, and the defendant's legal representative.

Additionally, the bill authorizes county jails to require a defendant who has been committed to the DHS to continue treatment while in a county jail while he or she is awaiting a court proceeding. If necessary, medical personnel may forcibly administer court-ordered medication to a defendant. The bill also clarifies that evidence first acquired during involuntary medication proceedings is not admissible against a defendant, but may be considered during a sentencing hearing.

Senate Bill 09-006 creates a new County Jail Mobile Identification Unit within the Department of Revenue, Division of Motor Vehicles. This unit will consist of a vehicle staffed by division personnel. It will travel to jails in Adams, Arapahoe, Broomfield, Boulder, Denver, Douglas, and Jefferson counties on a regular basis to issue new identification cards (ID) to each prisoner who does not already have one, but does have all of the proper documentation. Jail personnel may assist prisoners in obtaining documentation and priority will be given to mentally ill prisoners.

All prisoners receiving IDs must be residents of the state and must bear the cost, unless the county or jail decides to bear the cost of providing the IDs. Prisoners receiving IDs must have a valid address because, in Colorado, individuals receive IDs via mail rather than at the processing center on the day they apply. The Department of Revenue is required to submit a report to the House and Senate Judiciary committees beginning July 1, 2011, of each year regarding the number of IDs processed or denied, the costs of issuing cards, the level of in-kind contributions made by participating counties, and the successes and challenges of the unit.

Finally, the bill specifies that the department is only to implement the mobile ID unit if it receives sufficient gifts, grants, and donations to operate the unit by June 15, 2012. By June 30, 2012, the department is to transmit a letter to the Revisor of Statutes indicating that sufficient moneys have been received. If this notice is not transmitted, the act will be repealed.

Earned Time and Parole

Current law allows offenders incarcerated in the Department of Corrections (DOC) to have up to 10 days each month deducted from their total sentence. Offenders may accrue earned time while serving on parole. In order to earn the time, offenders must demonstrate consistent progress in specified categories, such as work and training, group living, participation in counseling programs, and compliance with conditions of parole. Earned time may not reduce a sentence by more than 25 percent of the total.

House Bill 09-1351 increases the maximum monthly earned time to 12 days for inmates convicted of class 4, class 5, and class 6 felonies that do not involve a victim, dangerous weapons, or child prostitution. It changes the maximum earned time reduction for inmates from 25 percent to 30 percent of a total sentence. The additional two days per month applies only to inmates, which does not include offenders on parole. In addition to the 12 days each month, the bill creates a new kind of earned time called earned release time for inmates who:

- have no code of penal discipline violations;
- are program-compliant; and
- were not convicted of offenses involving a victim, dangerous weapons, or child prostitution.

Inmates convicted of class 4 or class 5 felonies who meet the above requirements may earn release 60 days prior to their mandatory release date. Eligible class 6 felons may earn release 30 days prior to their mandatory release date.

The bill also allows the General Assembly, beginning in FY 2012-13, to appropriate savings generated by additional earned time releases to recidivism reduction programs.

Certain offenders serving prison sentences are eligible for early release through transition to a community corrections facility. Others may be diverted directly to community corrections as an alternative to prison. In either case, a local community corrections board makes the final decision about which offenders to accept into each facility. **House Bill 09-1181** authorizes a victim (or the family of a victim) to make an oral statement to the community corrections board at a hearing to determine whether an offender may transition from prison to a community corrections facility. The board may put reasonable parameters on the victim's oral statement.

Under current law, individuals who are sentenced to a period of incarceration in a county jail are entitled to a two-day sentence reduction per month for good behavior. **House Bill 09-1263** amends that provision so that individuals who are in jail receive a two-day sentence reduction for every 30 days of incarceration. The bill also clarifies that individuals who are designated as "trusty prisoners" may be granted earned time, not to exceed 10 days, in any 30-day period, rather than in a month. Individuals incarcerated in a county jail may also be eligible for earned time of up to three

days for every 30 days of incarceration, at the discretion of the sheriff, if they demonstrate particularly good behavior by participating in educational activities or other programs.

The bill also amends the earned time provisions for individuals who are confined pending a parole revocation hearing. These individuals will be entitled to credit for their time in jail pending the parole revocation hearing against any reincarceration period imposed by the parole board.

Senate Bill 09-135 requires the State Board of Parole and the DCJ to develop and implement processes to analyze data related to parole board decisions. Specifically, the parole board is to track data concerning the board's rationale for granting and denying parole. The board will also track data on whether offenders recidivate while on parole. The DCJ is required to analyze the data and provide the parole board with a report on a quarterly basis. The division also is to provide the board with training so that the board may use the data more effectively to make decisions.

Department of Corrections Facilities

Each correctional facility is given a security level designation by the DOC. **Senate Bill 09-034** raises the security level designation for the Centennial Correctional Facility from level IV to level V. There are five security levels within the DOC. Level I is the least restrictive, with designated boundaries, but no perimeter fencing is required. Level V facilities are the most restrictive that generally use guard towers or stun-lethal fencing with continuously-patrolled perimeters.

House Bill 09-1011, which was postponed indefinitely by the House State, Veterans, and Military Affairs Committee, would have authorized the state to enter into one or more lease-purchase agreements to finance the development and construction of a new headquarters building for the DOC. The bill provided guidance about the lease-purchase agreement, including the:

- term of the agreement may not exceed 30 years;
- total principal amount may not exceed \$30 million;
- maximum annual payments from state funds may not exceed \$2 million;
- state treasurer must approve any lease-purchase agreement;
- lease-purchase agreement will not be construed as creating an indebtedness or other financial obligation that is prohibited by state law; and
- state will be authorized by the agreement to:
 - receive fee title to all property that is the subject of the agreement on or prior to the expiration of the agreement; and
 - reduce the terms of the lease through prepayment of rent and other payments.

Since 1979, the state has entered into lease-purchase agreements by issuing certificates of participation (COPs) to finance the debt of capital construction projects. The COPs are tax-exempt government securities that are sold to investors, who then receive COP payments including interest income. The bill authorized the lessor to issue, distribute, and sell COPs to private investors, but there would have been no direct relationship created between these investors and the state.